

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

ARLENE B. MARKIND, :  
Plaintiff, : CIVIL ACTION NO. 04-6209 (MLC)  
v. :  
BARTON D. WEISMAN, et al., :  
Defendants. :  
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:

**O R D E R**

**THIS MATTER ARISING** on the defendants' motion to dismiss the second amended complaint pursuant to Federal Rule of Civil Procedure 23; and the Court having read the papers in support of and opposition to the motion; and the Court having heard oral argument from the parties in court on July 7, 2005 and by telephone on July 14, 2005; and for the reasons stated on the record on July 7, 2005, and July 14, 2005; and good cause appearing;

**IT IS THEREFORE** on this 14th day of July, 2005, **ORDERED** that the motion to dismiss (dkt. entry nos. 18 & 19) is **DENIED** **WITHOUT PREJUDICE**; and

**IT IS FURTHER ORDERED** that the action is **ADMINISTRATIVELY TERMINATED** by consent of the parties, and any party may move to reopen the action at any appropriate time for good cause shown;<sup>1</sup> and

**IT IS FURTHER ORDERED** that the Clerk **ADMINISTRATIVELY TERMINATE** the action and designate the action as **CLOSED**.

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge

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<sup>1</sup> The Court is concerned that it may lack jurisdiction under 28 U.S.C. § 1332 in this action, either on grounds of lack of diverse citizenship or lack of requisite amount in controversy. If discovery takes place in the contemplated state court appraisal action, it would be efficient for plaintiff to discover relevant facts regarding citizenship of each defendant as of the date this federal action was filed. See Grupo Dataflux v. Atlas Global Group, 541 U.S. 567, 571 (2004). This Court intends to determine whether it has diversity jurisdiction in the event either party moves to reopen here.